

REMARKS

The present patent application was filed on October 15, 2003 with claims 1-48. Claims 12-48 were withdrawn from consideration in response to a previous restriction requirement. Therefore, claims 1-11 are being presented for examination on the merits.

5 This amendment is submitted pursuant to 37 CFR §1.116 and should be entered. The Amendment places all of the pending claims, i.e., claims 1-11, in a form that is believed allowable, and, in any event, in a better form for appeal. It is believed that examination of the pending claims as amended, which are consistent with the previous record herein, will not place any substantial burden on the Examiner. Applicants note that the Examiner has already considered this precise amended  
10 limitation in the original Office Action.

Independent claim 1 is being amended herein. No new matter is being added by the amendment. Support for the amendment to independent claim 1 may be found, for example, in the original version of Claim 1. The amendment to independent claim 1 is not being made for the purposes of patentability, but merely to clarify the subject matter to which Applicants are entitled. As discussed  
15 hereinafter, Applicants submit that the original claim terminology of “implanted species” more particularly points out and distinctly claims the invention, consistent with Section 112 and the scope of the originally filed specification, in order to give applicants the protection to which they are entitled.

In the present Office Action, the Examiner rejected claims 1-11 under 35 U.S.C. §102(b) as being anticipated by Iwane et al. (U.S. Patent No. 6,140,209).

20 Applicants respectfully traverse the Examiner’s rejection. Notwithstanding this traversal, Applicants have amended independent claim 1, from which claims 2-11 ultimately depend. Applicants respectfully point out that Iwane does not teach or suggest a carrier substrate having a separation plane defined by a porous region with a tuned porosity in combination with an implanted species positioned therein, as recited in independent claim 1.

25 The Examiner asserts on pages 2 and 4 that Iwane et al. discloses in Figures 4-21B a layer transfer structure (PW) comprising a carrier substrate (1,2) having a porous region (3) with a tuned porosity in combination with a species (silicon) positioned therein defining a separation plane in the carrier substrate.

30 Independent claim 1 has been amended to emphasize that the carrier substrate has a porous region with a tuned porosity in combination with *an implanted species* positioned therein defining a separation plane in the carrier substrate.

First, Applicants assert that the “implanted species” limitation in Claim 1 is a valid limitation for a structure claim, notwithstanding the Examiner’s position in the original Office Action. The Examiner previously asserted that the “implanted species” limitation is a method recitation in a device and that the patentability of a product does not depend on its method of production. Applicants submit that the “implanted species” limitation in claim 1 is not a method recitation nor merely an indication of the method of production. Rather, as discussed more fully below, the “implanted species” limitation clearly defines a *characteristic* of the structure itself. As such, the “implanted species” limitation is a valid limitation for a structure claim.

Applicants further submit that the “implanted species” limitation more particularly points out and distinctly claims the invention, consistent with Section 112. The scope and meaning of the “implanted species” limitation is well defined and well understood by a person of ordinary skill in the art.

As indicated above, the “implanted species” limitation clearly defines a *characteristic* of the structure itself. This characteristic is not shown or suggested by Iwane et al. As well understood by a person of ordinary skill, an implantation of a species into a carrier substrate creates a unique distribution of the species in the substrate. The degree of porosity (i.e., the “tuned porosity”) tracks this distribution. In other words, the porosity is tuned in accordance with the implantation profile. The implantation defines the separation plane. In other words, the separation plane in the carrier substrate is defined by having a porous region with a tuned porosity in combination with *an implanted species* positioned therein, as set forth in claim 1.

Iwane et al. do not disclose or suggest a “carrier substrate having a porous region with a tuned porosity in combination with *an implanted species* positioned therein defining a separation plane in the carrier substrate,” as required by claim 1, as now amended. The Examiner has not asserted in the current or original Office Action that Iwane et al. disclose or suggest this “implanted species” limitation. As such, reconsideration and withdrawal of the rejections is thus respectfully requested.

Given the above remarks, Applicants respectfully submit the all the pending claims, i.e., claims 1-11, are in condition for allowance and such favorable action is earnestly solicited.

If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Examiner is invited to contact the undersigned at the telephone number indicated below.

The Examiner's attention to this matter is appreciated.

Respectfully submitted,



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Kevin M. Mason  
Attorney for Applicant(s)  
Reg. No. 36,597  
Ryan, Mason & Lewis, LLP  
1300 Post Road, Suite 205  
Fairfield, CT 06430  
(203) 255-6560